

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

LARRY GAPEN,

Petitioner,

: Case No. 3:08-cv-280

- vs -

District Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

DAVID BOBBY, Warden,

Respondent.

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**DECISION AND ORDER GRANTING RESPONDENT'S MOTION FOR STAY**

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This capital habeas corpus case is before the Court on Respondent's Motion to Stay Discovery and Reconsider Prior Grant of Discovery in Light of *Cullen v. Pinholster* (Doc. No. 41). The Court is advised that Petitioner opposes the Motion.

In light of the uncertain impact of *Cullen* on this and other capital habeas corpus litigation, the Motion for Stay of Discovery is GRANTED. The Warden may file a memorandum in support of his request for reconsideration of discovery not later than April 18, 2011. Petitioner may respond and the Warden may reply to the response within the times allowed by S. D. Ohio Civ. R. 7.2.

April 7, 2011.

s/ **Michael R. Merz**  
United States Magistrate Judge